

§ 596.802

552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45112, Aug. 25, 1997, as amended at 68 FR 53660, Sept. 11, 2003]

§ 596.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to section 321 of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d), may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[61 FR 43463, Aug. 23, 1996. Redesignated at 62 FR 45112, Aug. 25, 1997]

Subpart I—Paperwork Reduction Act

§ 596.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of information collections relating to record-keeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45112, Aug. 25, 1997]

PART 597—FOREIGN TERRORIST ORGANIZATIONS AND SANCTIONS REGULATIONS

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AUTHORITY: 31 U.S.C. 321(b); Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104-132, 110 Stat. 1214, 1248-53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

SOURCE: 62 FR 52495, Oct. 8, 1997, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 597.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing statutory authority and foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations. This part does not implement, construe, or limit the

scope of any other part of this chapter, including (but not limited to) the Terrorism Sanctions Regulations, part 595 of this chapter, and does not excuse any person from complying with any other part of this chapter, including (but not limited to) part 595 of this chapter.

(c) This part does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

Subpart B—Prohibitions

§ 597.201 Prohibited transactions involving blocked assets or funds of foreign terrorist organizations or their agents.

(a) Upon notification to Congress of the Secretary of State's intent to designate an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), until the publication in the FEDERAL REGISTER as described in paragraph (c) of this section, any U.S. financial institution receiving notice from the Secretary of the Treasury by means of order, directive, instruction, regulation, ruling, license, or otherwise shall, except as otherwise provided in such notice, block all financial transactions involving any assets of such organization within the possession or control of such U.S. financial institution until further directive from the Secretary of the Treasury, Act of Congress, or order of court.

(b) Except as otherwise authorized by order, directive, instruction, regulation, ruling, license, or otherwise, from and after the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), any U.S. financial institution that becomes aware that it has possession of or control over any funds in which the designated foreign terrorist organization or its agent has an interest shall:

(1) Retain possession of or maintain control over such funds; and

(2) Report to the Secretary of the Treasury the existence of such funds in

accordance with § 501.603 of this chapter.

(c) Publication in the FEDERAL REGISTER of the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a) shall be deemed to constitute a further directive from the Secretary of the Treasury for purposes of paragraph (a) of this section, and shall require the actions contained in paragraph (b) of this section.

(d) The requirements of paragraph (b) of this section shall remain in effect until the effective date of an administrative, judicial, or legislative revocation of the designation of an organization as a foreign terrorist organization, or until the designation lapses, pursuant to 8 U.S.C. 1189.

(e) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter. Requests for the unblocking of funds pursuant to § 501.806 must be submitted to the attention of the Compliance Programs Division.

§ 597.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of § 597.201 or any other provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such funds or assets.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any funds or assets held in the name of a foreign terrorist organization or its agent or in which a for-

ign terrorist organization or its agent has an interest, or has had an interest since such date, unless the financial institution with whom such funds or assets are held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of funds or assets which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any financial institution with whom such funds or assets were held or maintained (and as to such financial institution only) in cases in which such financial institution is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the financial institution with whom such funds or assets were held or maintained;

(2) The financial institution with which such funds or assets were held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such institution, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The financial institution with which such funds or assets were held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating

to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Except for exercises of judicial authority pursuant to 8 U.S.C. 1189(b), unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any funds or assets which, on or since the effective date, were in the possession or control of a U.S. financial institution and were held in the name of a foreign terrorist organization or its agent or in which there existed an interest of a foreign terrorist organization or its agent.

§ 597.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. financial institution holding funds subject to § 597.201(b) shall hold or place such funds in a blocked interest-bearing account which is in the name of the foreign terrorist organization or its agent and which is located in the United States.

(b)(1) For purposes of this section, the term *interest-bearing account* means a blocked account:

(i) in a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable for the amount of funds in the account or certificate of deposit; or

(ii) with a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) Funds held or placed in a blocked interest-bearing account pursuant to this paragraph may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same and must clearly indicate the foreign terrorist organization or agent having an interest in the accounts.

(c) Blocked funds held as of the effective date in the form of stocks, bonds, debentures, letters of credit, or instruments which cannot be negotiated for the purpose of placing the funds in a blocked interest-bearing account pursuant to paragraph (a) may continue to be held in the form of the existing security or instrument until liquidation or maturity, provided that any dividends, interest income, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with the requirements of this section.

(d) Funds subject to this section may not be held, invested, or reinvested in a manner in which an immediate financial or economic benefit or access accrues to the foreign terrorist organization or its agent.

§ 597.204 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 597.301 Agent.

(a) The term *agent* means:

(1) Any person owned or controlled by a foreign terrorist organization; or

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(2) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of a foreign terrorist organization.

(b) The term *agent* includes, but is not limited to, any person determined by the Director of the Office of Foreign Assets Control to be an agent as defined in paragraph (a) of this section.

NOTE TO § 597.301: The names of persons designated as foreign terrorist organizations or determined to fall within this definition are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN List") with the identifier "[FTO]." The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: <http://www.treasury.gov/sdn>. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Section 501.807 of this chapter sets forth the procedures to be followed by a person seeking administrative reconsideration of a determination that the person falls within this definition, or who wishes to assert that the circumstances resulting in such a determination are no longer applicable.

[62 FR 52495, Oct. 8, 1997, as amended at 76 FR 38544, June 30, 2011; 78 FR 38577, June 27, 2013]

§ 597.302 Assets.

The term *assets* includes, but is not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks

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or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 597.303 Blocked account; blocked funds.

The terms *blocked account* and *blocked funds* shall mean any account or funds subject to the prohibitions in § 597.201 held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 597.304 Designation.

The term *designation* includes both the designation and redesignation of a foreign terrorist organization pursuant to 8 U.S.C. 1189.

§ 597.305 Effective date.

Except as that term is used in § 597.201(d), the term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is October 6, 1997, or, in the case of foreign terrorist organizations designated after that date and their agents, the earlier of the date on which a financial institution receives actual or constructive notice of such designation or of the Secretary of Treasury's exercise of his authority to block financial transactions pursuant to 8 U.S.C. 1189(a)(2)(C) and § 597.201(a).

§ 597.306 Entity.

The term *entity* includes a partnership, association, corporation, or other organization, group, or subgroup.

§ 597.307 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) as from time to time amended, notwithstanding the definition of that term in 31 CFR part 103.

NOTE: The breadth of the statutory definition of *financial institution* precludes its reproduction in this section. Among the types of businesses covered are insured banks (as defined in 12 U.S.C. 1813(h)), commercial banks or trust companies, private bankers, agencies or branches of a foreign bank in the United States, insured institutions (as defined in 12 U.S.C. 1724(a)), thrift institutions, brokers or dealers registered with the Securities and Exchange Commission under 15 U.S.C. 78a *et seq.*, securities or commodities brokers and dealers, investment bankers or investment companies, currency exchanges, issuers, redeemers, or cashiers of traveler's checks, checks, money orders, or similar instruments, credit card system operators, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan or finance companies, travel agencies, licensed senders of money, telegraph companies, businesses engaged in vehicle sales, including automobile, airplane or boat sales, persons involved in real estate closings and settlements, the United States Postal Service, a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 as further described in 31 U.S.C. 5312(a)(2), or agencies of the United States Government or of a State or local government carrying out a duty or power of any of the businesses described in 31 U.S.C. 5312(a)(2).

§ 597.308 Financial transaction.

The term *financial transaction* means a transaction involving the transfer or movement of funds, whether by wire or other means.

§ 597.309 Foreign terrorist organization.

The term *foreign terrorist organization* means an organization designated or redesignated as a foreign terrorist organization, or with respect to which the Secretary of State has notified Congress of the intention to designate as a foreign terrorist organization, under 8 U.S.C. 1189(a).

§ 597.310 Funds.

The term *funds* includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing. An electronic representation of any of the foregoing includes any form of digital or electronic cash, coin, or currency in

use currently or placed in use in the future.

§ 597.311 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 597.312 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to funds or assets (e.g., "an interest in funds") means an interest of any nature whatsoever, direct or indirect.

§ 597.313 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 597.314 Person.

The term *person* means an individual or entity.

§ 597.315 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 597.316 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of any asset, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 597.317 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create,

surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 597.318 United States.

The term *United States* means the United States, its territories, states, commonwealths, districts, and possessions, and all areas under the jurisdiction or authority thereof.

§ 597.319 U.S. financial institution.

The term *U.S. financial institution* means:

- (a) Any financial institution organized under the laws of the United States, including such financial institution's foreign branches;
- (b) Any financial institution operating or doing business in the United States; or
- (c) Those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such foreign financial institutions' other foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 597.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 597.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 597.403 Termination and acquisition of an interest in blocked funds.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of funds (including any interest in funds) away from a foreign terrorist organization or its agent, such funds shall no longer be deemed to be funds in which the foreign terrorist organization or its agent has or has had an interest, or which are held in the name of a foreign terrorist organization or its agent, unless there exists in the funds another interest of a foreign terrorist organization or its agent, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if funds (including any interest in funds) are or at any time since the effective date have been held by a foreign terrorist organization or its agent, or at any time thereafter are transferred or attempted to be transferred to a foreign

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terrorist organization or its agent, including by the making of any contribution to or for the benefit of a foreign terrorist organization or its agent, such funds shall be deemed to be funds in which there exists an interest of the foreign terrorist organization or its agent.

§ 597.404 Setoffs prohibited.

A setoff against blocked funds (including a blocked account) by a U.S. financial institution is a prohibited transaction under § 597.201 if effected after the effective date.

§ 597.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, foreign terrorist organization or its agent or involving a debit to a blocked account or a transfer of blocked funds not explicitly authorized within the terms of the license.

§ 597.406 Offshore transactions.

The prohibitions contained in § 597.201 apply to transactions by U.S. financial institutions in locations outside the United States with respect to funds or assets which the U.S. financial institution knows, or becomes aware, are held in the name of a foreign terrorist organization or its agent, or in which the U.S. financial institution knows, or becomes aware that, a foreign terrorist organization or its agent has or has had an interest since the effective date.

§ 597.407 Palestinian Authority.

Following the January 2006 Palestinian elections, Hamas, a designated terrorist entity whose property and interests in property are blocked pursuant to § 597.201, has been determined to have a property interest in the transactions of the Palestinian Authority. Accordingly, pursuant to § 597.201, U.S. persons are prohibited from engaging in transactions with the Palestinian Authority unless authorized. Certain transactions with the Palestinian Au-

thority may be authorized by license, see subpart E of this part.

[71 FR 27202, May 10, 2006]

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 597.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53660, Sept. 11, 2003]

§ 597.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

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§ 597.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 597.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets by a financial institution into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

NOTE TO § 597.503: Please refer to §§ 501.603 and 597.601 of this chapter for mandatory reporting requirements regarding financial transfers.

§ 597.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts

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of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 597.505 Payment for certain legal services.

Except as otherwise authorized, specific licenses may be issued, on a case-by-case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses through a U.S. financial institution for the following legal services by U.S. persons:

(a) Provision of legal advice and counseling to a foreign terrorist organization or an agent thereof on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of any of the prohibitions of this part;

(b) Representation of a foreign terrorist organization or an agent thereof when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(c) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings on behalf of a foreign terrorist organization or an agent thereof;

(d) Representation of a foreign terrorist organization or an agent thereof before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against a foreign terrorist organization or an agent thereof;

(e) Representation of an agent of a foreign terrorist organization, wherever located, detained within the jurisdiction of the United States or by the United States government, with respect to either such detention or any charges made against such agent, including, but not limited to, the conduct of military commission prosecutions and the initiation and conduct of federal court proceedings;

(f) Provision of legal services to a foreign terrorist organization or an agent thereof in any other context in which prevailing U.S. law requires access to legal counsel at public expense; and

(g) Representation of a foreign terrorist organization seeking judicial review of a designation before the United States Court of Appeals for the District of Columbia Circuit pursuant to 8 U.S.C. 1189(b)(1).

NOTE TO § 597.505: See § 597.513 of this part for authorized mechanisms for payment through a U.S. financial institution of professional fees and reimbursement of incurred expenses for legal services specified in this section provided by a U.S. person to or on behalf of a foreign terrorist organization or an agent thereof.

[62 FR 52495, Oct. 8, 1997, as amended at 73 FR 78633, Dec. 23, 2008; 75 FR 75909, Dec. 7, 2010]

§ 597.506 Official activities of certain international organizations; U.S. person employees of certain governments.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to engage in all financial transactions with the Palestinian Authority otherwise prohibited by this part that are for the conduct of the official business of the United Nations, provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For purposes of this section only, the term “United Nations” means its principal organs, including funds, bodies, commissions, agencies, departments and other entities of the Security Council, General Assembly, Economic and Social Council and Secretariat, specifically including, among others, the World Bank, the International Monetary Fund, the World Food Programme, and the World Health Organization.

(c) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.507 Travel, employment, residence and maintenance transactions with the Palestinian Authority.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to engage in all transactions that are ordinarily incident to U.S. persons’ travel

to or from, or employment, residence or personal maintenance within, the jurisdiction of the Palestinian Authority, including, but not limited to, receipt of salaries, payment of living expenses and acquisition of goods or services for personal use. Nothing in this license authorizes any debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.508 Payment of taxes and incidental fees to the Palestinian Authority.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the following activities by U.S. persons: the payment of taxes or fees to, or the purchase or receipt of permits or public utility services from, the Palestinian Authority where such transactions are necessary and ordinarily incident to such persons’ day-to-day operations. Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.509 Transactions with entities under the control of the Palestinian President and certain other entities.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to engage in all transactions otherwise prohibited under this part with the following entities and individuals:

(1) The Palestinian Authority Presidency, including only the Office of the President, Presidential Security, General Intelligence Apparatus, Governors and Governorate staff, the Attorney General’s Office, the Palestine Investment Fund (PIF), the Border Crossings Administration, and the Palestine

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Broadcasting Corporation (including the Voice of Palestine, Wafa News Agency, and the General Public Information Agency/State Information Services);

(2) The Palestinian Judiciary, including the Higher Judicial Council;

(3) Members of the Palestinian Legislative Council (PLC) who were not elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT); and

(4) The following independent agencies: The Central Elections Commission; the Independent Citizens Rights Commission; the General Audit Authority/External Audit Agency; and the Palestinian Monetary Authority.

(b) Effective April 12, 2006, U.S. financial institutions are authorized to reject transactions with members of the Palestinian Legislative Council (PLC) who were elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT), provided that any such individuals are not named on OFAC's list of Specially Designated Nationals and Blocked Persons.

(c) Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(d) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section. The retention provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (b) of this section.

[71 FR 27202, May 10, 2006]

§ 597.510 Concluding activities with the Palestinian Authority.

(a) Effective April 12, 2006, all transactions and activities with the Palestinian Authority otherwise prohibited under this part are authorized through May 12, 2006, provided that they are necessary to conclude ongoing contracts or programs with the Palestinian Authority, and further provided

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that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.511 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the provision by nongovernmental organizations that are U.S. persons of in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1.

(c) U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the provision by nongovernmental organizations that are U.S. persons of in-kind donations of medical devices listed on the Commerce Control List to the Palestinian Authority Ministry of Health, provided that

(1) Such donation is licensed by OFAC; and

(2) Such donation is authorized under or pursuant to the Export Administration Regulations.

(d) The retention and reporting provisions of § 597.201 shall not apply with

respect to transactions authorized by paragraphs (a) and (c) of this section.

[71 FR 58744, Oct. 5, 2006]

§ 597.512 Transactions with the Palestinian Authority authorized.

(a) As of June 20, 2007, U.S. persons are authorized to engage in all transactions otherwise prohibited under this part with the Palestinian Authority.

(b) For purposes of this section only, the term *Palestinian Authority* means the Palestinian Authority government of Prime Minister Salam Fayyad and President Mahmoud Abbas, including all branches, ministries, offices, and agencies (independent or otherwise) thereof.

[72 FR 61518, Oct. 31, 2007]

§ 597.513 Payments from funds originating outside the United States and the formation of legal defense funds authorized.

(a) *Payments from funds originating outside the United States.* Effective December 7, 2010, receipts of payment through a U.S. financial institution of professional fees and reimbursement of incurred expenses for the provision of legal services specified in § 597.505 are authorized from funds originating outside the United States, provided that:

(1) Prior to receiving payment through a U.S. financial institution for legal services specified in § 597.505 rendered to a foreign terrorist organization or agent thereof, the U.S. person that is an attorney, law firm, or legal services organization provides to the Office of Foreign Assets Control a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity. The copy of a letter of engagement or a letter of intent to engage, accompanied by correspondence referencing this paragraph § 597.513(a), is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(2) The funds received by U.S. persons through a U.S. financial institution as payment of professional fees and reim-

bursement of incurred expenses for the provision of legal services specified in § 597.505 must not originate from:

- (i) A source within the United States;
- (ii) Any source, wherever located, within the possession or control of a U.S. person; or
- (iii) Any individual or entity, other than the person on whose behalf the legal services specified in § 597.505 are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order;

NOTE TO PARAGRAPH (a)(2) OF § 597.513: This paragraph authorizes the person on whose behalf the legal services specified in § 597.505 are to be provided to make payments for specified legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose assets and funds are subject to the prohibitions in § 597.201(a) or whose property and interests in property are blocked pursuant to any other part of this chapter holds an interest.

(3) *Reports.* (i) U.S. persons who receive payments in connection with legal services specified in § 597.505 must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the payments were received providing information on the funds received. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) If applicable:

(1) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with specified legal services, such as private investigators or expert witnesses;

(2) A general description of the services provided; and

(3) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (a), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the

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Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (a)(3) OF §597.513: U.S. persons who receive payments in connection with legal services specified in §597.505 do not need to obtain specific authorization to make payments through a U.S. financial institution for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses.

(4) Nothing in this paragraph (a) authorizes the receipt of payment through a U.S. financial institution of professional fees or reimbursement of incurred expenses for the provision of legal services not specified in §597.505.

NOTE 1 TO PARAGRAPH (a) OF §597.513: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph (a) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (a) OF §597.513: Nothing in this paragraph authorizes the transfer of any blocked property, the debiting of any blocked account, the entry of any judgment or order that effects a transfer of blocked property, or the execution of any judgment against property blocked pursuant to any Executive order or this chapter. U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from the Office of Foreign Assets Control to authorize the release of a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings*, which is available at: http://www.treas.gov/resource-center/sanctions/Documents/legal_fee_guide.pdf.

(b) *Legal defense funds.* Effective December 7, 2010, U.S. persons that are attorneys, law firms, or legal services organizations are authorized to form legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services specified in §597.505 may be debited provided that:

(1) The legal defense fund must be held in a savings or checking account at a financial institution located in the United States;

(2) Prior to debiting the legal defense fund, the U.S. person responsible for establishing the legal defense fund must submit the following information to the Office of Foreign Assets Control: A copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity; the name of the individual or entity responsible for establishing the legal defense fund; the name of the financial institution at which the account for the legal defense fund will be held; a point of contact at the financial institution holding the account for the legal defense fund; and the account name and account number for the legal defense fund. The foregoing information must be accompanied by correspondence referencing this paragraph (b) and is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(3) The legal defense fund may not receive funds from a person whose assets and funds are subject to the prohibitions in §597.201(a) or whose property and interests in property are blocked pursuant to any other part of this chapter;

(4) The U.S. person responsible for establishing the legal defense fund must notify the financial institution at which the account for the legal defense fund is held that the account may only be debited to make payments of professional fees and reimburse expenses incurred in connection with the provision of legal services specified in §597.505;

(5) *Reports.* (i) U.S. persons responsible for establishing legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services specified in §597.505 may be debited must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the funds were deposited with or debited from the account of the legal defense fund providing information on the funds received by the legal defense fund and debits made to

the legal defense fund during the reporting period. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) Any individual or entity to whom any payments were made, including, if applicable:

(1) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with specified legal services, such as private investigators or expert witnesses;

(2) A general description of the services provided; and

(3) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (b), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (b)(5) OF § 597.513: U.S. persons who receive payments in connection with legal services specified in § 597.505 do not need to obtain specific authorization to make payments through a U.S. financial institution for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses.

(6) Nothing in this paragraph (b) authorizes the formation or debiting of legal defense funds in connection with the provision of legal services not specified in § 597.505.

NOTE 1 TO PARAGRAPH (b) OF § 597.513: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph (b) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (b) OF § 597.513: Any funds remaining in a legal defense fund account after all payments of professional fees and reimbursement of incurred expenses authorized pursuant to this paragraph have been made or upon termination of the legal services for which payment is authorized pursuant to this paragraph are deemed to be funds of the foreign terrorist organization or agent thereof to or on whose behalf the legal services were rendered and subject to the prohibitions of this part. U.S. financial insti-

tutions in the possession or control of such remaining funds may apply for the unblocking of the funds by following the procedures set forth at § 501.801 of this chapter.

[75 FR 75909, Dec. 7, 2010]

Subpart F—Reports

§ 597.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter; provided, however, that all of the powers afforded the Director pursuant to the first 3 sentences of § 501.602 of this chapter may also be exercised by the Attorney General in conducting administrative investigations pursuant to 18 U.S.C. 2339B(e); provided further, that the investigative authority of the Director pursuant to § 501.602 of this chapter shall be exercised in accordance with 18 U.S.C. 2339B(e); and provided further, that for purposes of this part no person other than a U.S. financial institution and its directors, officers, employees, and agents shall be required to maintain records or to file any reports or furnish any information under §§ 501.601, 501.602, or 501.603 of this chapter.

Subpart G—Penalties

§ 597.701 Penalties.

(a) Attention is directed to 18 U.S.C. 2339B(a)(1), as added by Public Law 104-132, 110 Stat. 1250-1253, section 303, which provides that whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(b) Attention is directed to 18 U.S.C. 2339B(b), as added by Public Law 104-132, 110 Stat. 1250-1253, section 303, which, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note), provides that, except as authorized by the Secretary of the Treasury, any financial institution that knowingly fails to retain possession of or maintain control over funds in which a foreign terrorist

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organization or its agent has an interest, or to report the existence of such funds in accordance with these regulations, shall be subject to a civil penalty in an amount that is the greater of \$55,000 per violation, or twice the amount of which the financial institution was required to retain possession or control.

NOTE TO PARAGRAPH (b): The current \$55,000 civil penalty cap may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(d) Conduct covered by this part may also be subject to relevant provisions of other applicable laws.

[62 FR 52495, Oct. 8, 1997, as amended at 68 FR 61361, Oct. 28, 2003]

§ 597.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part, and the Director, acting in coordination with the Attorney General, determines that civil penalty proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

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(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to respond within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 597.703 Response to prepenalty notice.

(a) *Time within which to respond.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to respond in writing to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should respond to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30-day period specified in paragraph (a) of this

section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 597.704 Penalty notice.

(a) *No violation.* If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent, the Director promptly shall issue a written notice of the imposition of the monetary penalty on the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(2) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(3) The penalty notice shall inform the respondent of the requirement to furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Department intends to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 597.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the

penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 597.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 52495, Oct. 8, 1997, as amended at 68 FR 53660, Sept. 11, 2003]

§ 597.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to 8 U.S.C. 1189 or 18 U.S.C. 2339B, as added by Public Law 104-132, 110 Stat. 1248-1253, sections 302 and 303, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 597.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of information collections relating to record-keeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.